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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BENN BOLLAY and DAVID B. DONAHUE

Appeal 2009-006185
Application 10/040,773¹
Technology Center 2400

Before KENNETH W. HAIRSTON, JOHN C. MARTIN, and MARC S.
HOFF, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ The real party in interest is The DIRECTV Group, Inc.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' invention concerns a system and method for controlling user access to a computer network using a content filtering router that filters requests for content by routing them based on their final destination addresses (Spec. 1). A packet containing a request for content is received at a content filtering router. The packet comprises a first destination Internet Protocol (IP) address of a content server that stores the content and a second destination IP address of the content filtering router. If it is determined that the first destination IP address is on a list of destination IP addresses to be filtered, the packet is routed to an output port on the content filtering router based on the first destination IP address and the list (Spec. 4).

Claim 1 is exemplary of the claims on appeal:

1. A method for filtering content, comprising:
receiving at a content filtering router a packet containing a request for content, where said packet comprises a first destination Internet Protocol (IP) address of a content server that stores said content and a second destination IP address of said content filtering router;
determining whether said first destination IP address is on a list of destination IP addresses to be filtered; and
routing said packet to an output port on said content filtering router based on said first destination IP address and said list.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Shah	US 6,260,070 B1	Jul. 10, 2001
Mayer	US 7,016,980 B1	Mar. 21, 2006

Claims 1-4, 7-10, 14-16, and 18-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mayer.

Claims 11-13, 17, and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer.

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mayer in view of Shah.

Throughout this decision, we make reference to the Appeal Brief (“App. Br.,” filed January 11, 2008), the Reply Brief (“Reply Br.,” filed May 13, 2008) and the Examiner’s Answer (“Ans.,” mailed March 26, 2008) for their respective details.

ISSUE

Appellants argue, *inter alia*, that Mayer’s disclosure of packet filtering fails to anticipate the subject matter of the claims under appeal, which variously require “a method for filtering content,” “a content filtering router,” and/or “a content filtering service” (App. Br. 8-10, 13, 17). The Examiner, for his part, finds that Mayer discloses method and apparatus for analyzing firewalls; that firewalls provide filtering of Internet content; that Internet traffic consists of a series of packets; and that therefore, Mayer’s “packet filtering” meets the claim limitations pertaining to “content filtering” (Ans. 9-10).

Appellants’ contentions, as well as the Examiner’s findings, present us with the following issue:

Does Mayer teach or fairly suggest a method for filtering content including a content filtering router that receives a packet containing a request for content, and determining whether a first destination IP address in

said packet is on a list of destination IP addresses to be filtered, as the claims require?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

The Invention

1. Appellants define “content filtering” as the “restriction and/or control of user access to content on the Internet” (Spec. 2). “For example, businesses may want to restrict their employees from viewing certain content on the Internet. Likewise, parents may wish to block their children’s access to violent or adult content” (*Id.*). “Content filtering allows a system administrator to block or limit content based on traffic type, file type, Web site, or the like” (*Id.*).

Mayer

2. Mayer teaches “a method and apparatus . . . for analyzing the operation of one or more firewalls or other networking gateways . . . that perform a packet filtering function in a network environment” (col. 3, ll. 13-16).

3. “Given a user query, the disclosed firewall analysis tool simulates the behavior of the various firewalls . . . and determines which portions of the services or machines specified in the original query would manage to reach from the source to the destination” (col. 3, ll. 21-26).

PRINCIPLES OF LAW

“A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference.” *See In re Buszard*, 504 F.3d 1364, 1366 (Fed. Cir. 2007) (quoting *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994)).

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’”

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 407 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 (1966). *See also KSR*, U.S. 550 at 1734 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”)

The claim terms should be given their broadest reasonable meaning in their ordinary usage as such claim terms would be understood by one skilled in the art by way of definitions and the written description. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

The claims, of course, do not stand alone. Rather, they are part of a ‘fully integrated written instrument’ . . . consisting principally of a specification that concludes with the claims. For that reason, claims ‘must be read in view of the specification, of which they are a part.’ . . . [T]he specification ‘is always highly relevant to

the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.’

Phillips v. AWH Corp., 415 F.3d 1303, 1315 (Fed. Cir. 2005).

ANALYSIS

CLAIMS 1-4 AND 7-25

Appellants’ independent claims consist of claims 1, 14, and 21-24. Claim 1 requires “receiving at a content filtering router a packet containing a request for content.” Claim 14 similarly requires “receiving at an Internet Protocol (IP) communications device a packet containing a request for content” and it is implicit that such a packet originates at a client computer. Claims 21-23 contain limitations similar to those in claims 1 and 14. Claim 24 explicitly recites that requests for content originate from a client computer.

We do not agree with the Examiner’s finding (Ans. 9-10) that “packet filtering” disclosed by Mayer properly meets the limitations pertaining to “content filtering” in the claims. We look to the Specification as the single best guide to determine the meaning of the claim phrase “content filtering.” *Phillips*, 415 F.3d at 1315. Appellants define “content filtering” as the “restriction and/or control of user access to content on the Internet” (FF 1). “For example, businesses may want to restrict their employees from viewing certain content on the Internet. Likewise, parents may wish to block their children’s access to violent or adult content” (*Id.*). “Content filtering allows a system administrator to block or limit content based on traffic type, file type, Web site, or the like” (*Id.*).

In contrast, Mayer teaches “a method and apparatus . . . for analyzing the operation of one or more firewalls or other networking gateways . . . that perform a *packet filtering* function in a network environment” (FF 2; emphasis added). “Given a user query, the disclosed firewall analysis tool *simulates* the behavior of the various firewalls . . . and determines which portions of the services or machines specified in the original query would manage to reach from the source to the destination” (FF 3; emphasis added). Mayer’s device thus only simulates packet filtering, rather than actually performing it. Even if one assumes *arguendo* that Mayer’s simulation corresponds to the behavior of an actual firewall-equipped network, Mayer does not teach that such a network performs content filtering within the meaning expressed in Appellants’ Specification. We have reviewed Mayer and find that it is not directed to content filtering, i.e. the restriction and/or control of user access to content on the Internet. Mayer contains no teaching of a device that blocks certain types of content. Mayer does not teach examining (outgoing) requests for content that contain a first destination IP address of a content server that stores said content. Mayer contains no teaching of a list of destination IP addresses to be filtered, as each independent claim requires.

Because we find that Mayer does not teach content filtering, or a list of destination IP addresses to be filtered, Appellants have established that the Examiner erred in rejecting claims 1-4, 7-10, 14-16, and 18-24 under §102(e) as being anticipated by Mayer. Appellants have also established that the Examiner erred in rejecting Claims 11-13, 17, and 25 under § 103(a) as being unpatentable over Mayer. Accordingly, we will not sustain the rejections.

CLAIMS 5 AND 6

As noted *supra*, we do not sustain the § 102 rejection of claims 3 and 4, from which claims 5 and 6 depend. We have reviewed Shah and find that Shah does not remedy the noted deficiencies of Mayer. Therefore, we will not sustain the § 103 rejection of claims 5 and 6 for the same reasons we do not sustain the § 102 rejection of claims 3 and 4.

CONCLUSION

Mayer does not teach or fairly suggest a method for filtering content including a content filtering router that receives a packet containing a request for content, and determining whether a first destination IP address in said packet is on a list of destination IP addresses to be filtered, as the claims require.

ORDER

The Examiner's rejection of claims 1-25 is reversed.

REVERSED

ELD

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